

Minutes of the Meeting of the
Arizona Game and Fish Commission
Friday, March 23, 2001 – 8:00 a.m.
Saturday, March 24, 2001 – 8:00 a.m.
Best Western InnSuites, 6201 N. Oracle Rd.
Tucson, AZ

PRESENT: (Commission)

Director's Staff

Chairman Dennis D. Manning
Commissioner Michael M. Golightly
Commissioner Joe Carter
Commissioner Sue Chilton
Commissioner W. Hays Gilstrap

Director Duane L. Shroufe
Deputy Director Steve K. Ferrell
Asst. A.G. Jay Adkins
Asst. A.G. Jim Odenkirk

Chairman Manning called the meeting to order at 8:00 a.m.

1. Executive Session – Legal Counsel

- a. *Forest Guardians v. APHIS*, CIV 99-61-TUC-WDB; *State of Arizona v. Babbitt*, CIV 98-0632-PHX-ROS; *Conservation Force v. Shroufe*, CIV 98-0239 PHX-RCB; *In Re General Stream Adjudication for the Little Colorado River and Gila River* and *Mark Boge v. Arizona Game and Fish Commission & Shroufe*, CIV 2000-020754

Motion: Gilstrap moved and Carter seconded THAT THE COMMISSION GO INTO EXECUTIVE SESSION.

Vote: Unanimous

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Meeting recessed 8:00 a.m.

Meeting reconvened 8:48 a.m.

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Chairman Manning called the meeting to order at 8:48 a.m. Members of the Commission and Director's staff were introduced. The meeting followed an addendum dated March 16, 2001. Chairman Manning noted that Item 8 on the addendum would be done before Item 2.

Director Shroufe announced the retirement of Pat O'Brien, Administrative Specialist in the Director's Office, effective April 27, 2001.

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8. Cowan Road Closure – Alternative Access Proposal

Presenter: Fred Bloom, Development Branch Chief

Historically, access to the northern portion of the Dry Canyon and Mule Mountains has been by a road leading south from the Davis Road approximately 16 miles southeast of Tombstone. The access point to this road is on private land prior to entering State Trust land. Currently, the landowner is denying public access at this location via a locked gate.

The Department spent a considerable amount of time working with Ms. Cowan in an attempt to resolve her issues and regain access to this area.

In February 2000, Ms. Cowan petitioned the Department to close three additional access points on State Trust lands approximately two miles to the south of her property. The Commission ultimately denied this petition. Presently, the only current existing access to the area is by way of the High Lonesome Road to the east and requires over an hour of additional time across extremely poor roads.

The Department has evaluated construction of an alternative route that will access the road system south of the Cowan property via an easement on State Trust land. An alignment has been proposed off the Davis Road to the east of the Cowan property, which traverses in a southwesterly direction, where it ties in with the existing road system.

The Department presented an overview of the easement application process within the State Land Department and presented cost estimates associated with both the easement and construction of the proposed road segment.

The total estimated cost to build the road is \$8700. Based on time estimates by the State Land Department, the review/consultation process would take about one year.

Comments from the public

Cochise Sheriff Larry Dever provided information for the Commission to weigh seriously. Cochise County sits in the center of the most popular "people smuggling" zone in the nation. Last year, Border Patrol agents apprehended over 650,000 would-be illegal immigrants in that zone; it is estimated that the figure represents one in every three of everyone who attempted. This means another 1.2 million people actually crossed through that zone. He mentioned volunteers picked up 10 tons of garbage from a small portion of the county. There are daily accidents on the rural roadways that people are using to escape Border Patrol checkpoints. These actions are occurring due to a result of two initiatives in El Paso and in San Diego. The INS intentionally funneled the majority of the illegal immigration flow into this country by way of the southern Arizona desert. The INS strategy for curtailing and bringing the situation under control is one of terrain and access denial to the transportation hubs that are serving these people. Local and county governments, private landowners and several others have entered into partnerships to support terrain and access denial.

Commission action would be contrary to the attempt to deny access to smugglers. The Commission would open another access that law enforcement is struggling to protect now. He was concerned with the problem that would be created. All other government agencies and organizations in Cochise County joined forces to deny passage to these people; the Commission would be taking action to open additional passage. He asked the Commission to join Cochise County in partnership to continue to deny access. The situation was catastrophic and should not continue.

Chairman Manning noted that three Commissioners have visited the area and have seen the damage. There were agencies that felt that opening this road would allow law enforcement into the area to try to curtail some of the activity.

Frank Adams stated he lived and ranched near Douglas for 38 years and was a member of the Border Patrol Advisory Committee. Roads in the area provide good access for illegals. The Border Patrol was having a difficult in curtailing traffic. A locked gate does not stop the traffic. He hoped the Commission would join Cochise County in trying to keep the traffic down.

Rodney Held, Water Resource Specialist/Project Manager for the Arizona Water Protection Fund, stated there was a Water Protection Fund Grant on the Cowan Ranch amounting to \$116,552 (state general fund money). The objective of the grant was to improve the overall condition of the watershed, reduce erosion in the area and increase ground cover for grazing management. The agreement was entered into in 1998. The Commission should consider the ramifications of opening an additional road to impact the lands. Ms. Cowan showed on a map the areas of erosion. She stated a "pipeline" that was considered a part of the grant process was now considered a road.

Paul Brick, Chairman of the San Pedro Natural Resource Conservation District and Commissioner on the Arizona Protection Fund, was concerned with the proposal before the Commission for several reasons. There was a huge amount of trash and garbage. The impacts were tremendous from the people coming through. Gates, fences, water systems mean nothing and are trashed nightly. He was concerned that work done through the grant money would be trashed because more people would be encouraged to enter the area. Mr. Brick asked if the Department had a written mitigation plan for the erosion problems that this road would cause. Mr. Brick noted four-wheel drive vehicles caused the main erosion problems and this needed to be mitigated. He asked if there was a written plan available for preventing people and drug smugglers from using this road.

Commissioner Carter stated roads existed in the area in 1998 and did not agree that hunters and four-wheelers created the problems. The problems in the area were impacted by a federal responsibility much more so than four-wheelers. To suggest that action taken by the Commission today would end something that started two years ago was a bit of a stretch. Chairman Manning agreed. The road would not impact the project in the future. Commissioner Golightly stated the Department was not a novice in building roads on private property and understood the laws.

When asked by Commissioner Golightly if cattle were excluded from the area. Mr. Brick stated cattle were actually a part of the solution to the problem. Controlled grazing by rotation was the key and was an integral part of the plan. Uncontrolled grazing was detrimental to vegetation but if it was controlled, plants get a chance to rest. Uncontrolled hundreds and thousands of people would destroy vegetation and it would never recover.

Fred Davis, a supervisor at the Whitewater Draw Natural Resource Conservation District, stated the road would allow unobstructed traffic that would damage the environment. Cochise County has the greatest road structure along the Mexican border. The main traffic is currently by foot. This road would provide an extra route to where illegals can divide on High Lonesome and go in two directions. He noted the damage north of Davis Road caused by cars. Cars are driven everywhere; not just on the roads. Trash and tires are everywhere and vehicles are cleaned out so more people can be loaded into them.

The volume of trash was unbelievable. This road would allow one less way for the Border Patrol to stop them.

Dave Lukens, Western Game Bird Alliance, hoped the Commission would allow the road to be constructed. He noted the problem with gaining access to hunt on public land in southeastern Arizona. He noted the excellent condition of the John Long Canyon road. He thought that the Water Conservation money might be put to better use in actually giving the money to the ranchers to buy cattle off the land. He thought reducing grazing would be more beneficial to the land.

Ruth Cowan, landowner, stated cattle have been removed from the land. She paid for a state lease for an entire year and had 30 head of cattle on the land for 1-1/2 months in a controlled area. This was to allow grass to grow. In the spirit of sportsmanship and trying to work with the other agencies in the Adopt-A-Ranch Program and the Game and Fish Department, she camped at the gate during hunting season from October 28 through November 21, to allow access. Sportsmen were not the problem. The land can handle only so many cows and so many people and illegals. This must be taken into consideration. She could not leave the ranch unattended. She noted the number of times fences were destroyed since the first of the year. She noted that her grants were matching grants. She was not anti-hunting, but she had originally requested closure of three roads. If this road were to be put in around the corrals, she was out of business.

Ms. Cowan noted five letters had been submitted expressing her same concerns and requesting that the Commission deny an alternative route through the ranch. A letter writer expressed concern also with human health issues, drug trafficking, livestock diseases and importation of noxious weeds.

Commissioner Carter stated this was an issue with much conflict. It was an issue beyond the jurisdiction and control of the Game and Fish Department, and the state as a whole. He saw one segment of the population (wildlife recreationists) being penalized and the Commission's primary responsibility was to its constituency.

Motion: Carter moved and Chilton seconded THAT THE COMMISSION DIRECT THE DEPARTMENT TO PROCEED WITH THE RECOMMENDATION WITH RESPECT TO A NEW ROAD SEGMENT, AND TO KEEP IN MIND THAT TO THE EXTENT IT DOESN'T RESULT IN RIPARIAN DAMAGE, TO KEEP IT AS FAR FROM THE CORRALS AS POSSIBLE; BUT CONCURRENT WITH THAT, TO EXHAUST EVERY EFFORT TO REACH SOME SORT OF SEASONAL AGREEMENT FOR AN ACCESS PROGRAM WITH MRS. COWAN THAT WOULD MEET THE PRIMARY SPORTSMEN SEASONS BEFORE PROCEEDING WITH THE RECOMMENDATION AS SUBMITTED.

Commissioner Carter noted the Department should be given some latitude to reach some agreement that would at least accommodate the primary sportsmen's seasons and to let the Director decide if other action would be appropriate.

Commissioner Golightly noted the Commission's responsibility to allow more recreationists in the area than just hunters. The Commission-constructed road should be open permanently.

Mr. Bloom noted it would be at least a year before the Department could proceed with a road. Before road construction could be started, the Commission would be asked to vote to approve expenditure of funds to build the road.

Commissioner Chilton thought it would be a good compromise for Ms. Cowan to allow access during the hunting seasons primarily for deer and javelina, which occur mainly in November and December. These months also tend to show less intense migrant traffic from Mexico.

Commissioner Carter clarified his motion THAT THE COMMISSION AUTHORIZE THE DEPARTMENT TO PROCEED WITH THE NEW ROAD SEGMENT ON STATE TRUST LANDS BYPASSING THE COWAN PROPERTY AND CONCURRENT WITH THAT TO HAVE THE DIRECTOR ATTEMPT TO NEGOTIATE A SEASONAL ACCESS AND TO GIVE HIM AUTHORIZATION TO DETERMINE AT WHAT POINT HE NEEDS TO PROCEED WITH THE NEW CONSTRUCTION ALIGNMENT VERSUS WHETHER OR NOT THERE WILL BE A LIMITED SEASON ACCESS SEASON THROUGH THE COWAN PROPERTY WITH THE ENHANCEMENTS THAT WERE TALKED ABOUT IN THE PROGRAM.

Commissioner Carter noted the Department would have the discretion of establishing specific time frames with regard to access.

Richard Rico, Assistant Director for Special Services, stated that what the motion meant to him was that the Department was directed to initiate the application process with the Land Department for the alternative new access route. This package could be submitted within the next 10 days. It would be a year before the State Land Department would come back with an appraised value of the right-of-way and a recommendation from the Land Commissioner as to whether or not the action was supported. This would leave a one-year window to work with Ms. Cowan to try to develop a Stewardship Agreement. Once the package was completed, the Department would return to the Commission with a recommendation to proceed with procurement of the 10-year easement. At this time a final decision would be made whether or not there would be a new route or an access agreement. Both tracks could be pursued simultaneously. He believed possible seasonal access would run from October 1 to March 1 on private land. There were many items that could possibly be negotiated.

Chairman Manning suggested eliminating the portion of the motion that addresses the continuation of negotiations with Mrs. Cowan and only retain the by-pass road in the motion. The Department could talk with her during the entire process. Mr. Rico agreed with him and stated the opportunity to enter into or negotiate a Stewardship Agreement would always exist. Commissioner Gilstrap stated he wanted direction to the Department in the motion to be clear. Director Shroufe also noted that if the Commission only approved the by-pass road, the Department would have to come back to undo the action, if the Department decided if it had an agreement. He suggested retaining the motion as originally stated.

Vote: Unanimous

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Former Commissioner Beth Woodin was recognized in the audience by Chairman Manning.

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2. An Update on Current Issues, Planning Efforts and Proposed Projects on Federal Lands in Arizona

Presenter: John Kennedy, Habitat Branch Chief

A copy of the printed update, which was given to the Commission prior to today's meeting, is included as part of these minutes.

More information was provided regarding the Department's role on the Forest Service team to assess the impacts of livestock grazing on wildlife species in the Southwest. Mr. Kennedy stated the Department usually requests direct participation in any type of Forest Service effort that has the potential to involve wildlife resources on forest lands. Because we have been invited to participate on this particular team, the Department has attempted to attend these meetings in Albuquerque. This team was initiated out of the Rocky Mountain Research Station with clear objectives. The Department is not directly involved in decisions being made, but we provide technical expertise with regard to fish and wildlife resources in Arizona's forests. At the same time we are involved in this effort, we are able to find out about other issues and planning processes occurring in forests in Arizona. One of the objectives at this time is to collect scientific publications regarding grazing impacts on wildlife species occurring in Arizona and New Mexico. A series of GIS maps will be created to evaluate important fish and wildlife habitats with focus on sensitive wildlife species and to overlay that on specific land management planning projects, including allotment management planning projects. Panels of wildlife experts are being formed to provide guidance to the Forest Service for the way they will work with permittees and lessees, and the Forest Service's work with the U.S. Fish and Wildlife Service on biological assessments and biological opinions, with emphasis on allotment management planning.

More information was given regarding the Benson Spring development on the Millsite Allotment. This was a success story. The project involves the Department, Tonto National Forest, Arizona Bowhunters Association, and the permittee. The project was fully funded through the Habitat Partnership Committee and was starting to be implemented. The project involves fencing, exclosure work and development of outside water sources for livestock.

More information was provided on Buenos Aires National Wildlife Refuge issues. Mr. Kennedy noted there were recent discussions in Washington, D.C. between the Director and upper levels at the Department of Interior, including the Acting Director of the U.S. Fish and Wildlife Service. Through this discussion and action by the International Association of Fish and Wildlife Agencies, states are more engaged on refuge issues, particularly regarding draft policies out for review now as well as policies that were finalized several months ago.

Commissioner Carter stated the Commission continues to have a responsibility on the political front because issues that will move the Service and others with respect to their views and attitudes will be by political influence at the congressional and Secretary level.

He hoped the Director would call upon the Commission or individual Commission members when appropriate to facilitate the process where appropriate.

Commissioner Chilton expressed concern with public access within and to large areas encompassed by refuges, wildernesses and other special designations. She asked that the Commission direct the Department to continue its work with the monument designations and extend it to the new issue of refuge policies on game and fish management responsibilities and public access to the resources on those extensive lands.

Director Shroufe suggested that the direction be put in the form of a motion.

Motion: Chilton moved and Carter seconded THAT THE COMMISSION DIRECT THE DEPARTMENT TO CONTINUE THE FINE WORK IT HAS BEEN DOING ON THE MONUMENT ISSUE AND TO EXPAND THAT TO INCLUDE THE NEW ISSUES OF USE OF REFUGES AND OTHER FEDERALLY DESIGNATED AREAS IN THE STATE. A LETTER SHOULD BE DRAFTED TO THE GOVERNOR, THE CONGRESSIONAL DELEGATION AND SECRETARY NORTON OUTLINING THE POTENTIAL IMPACTS OF THE DRAFT POLICIES AND FINAL POLICIES ON COMPATIBILITY.

Commissioner Carter suggested that a clarification should be made with respect to “new” issues; it should be “ongoing”. Commissioner Chilton agreed.

Vote: Unanimous

Comment from the public

Brian Dolan, representing the Arizona Desert Bighorn Sheep Society (ADBSS), encouraged the Commission to direct the Department to take a more practical and pragmatic approach with NEPA and Wilderness Act compliance, especially with regard to bighorn sheep habitat and water development projects. He mentioned he had been recently informed that the Air Force cancelled another one of the ADBSS projects this year because of misguided direction with regard to NEPA compliance. Six cooperative projects of the ADBSS had been cancelled for one reason or another during the last three years. None were cancelled due to the merits of the project, but rather because of a technicality in the process. People are allowing land management agencies to implement a “no action” alternative without conducting a NEPA evaluation of their own. Also, he saw more instances where the Department was taking a more sensitized position regarding Wilderness Act compliance at the expense of the water development program. Many Arizona sportsmen and members of the Department put a lot of work and effort into the wildlife management guidelines contained within the ADWA. The limits of the guidelines needed to be exercised to the fullest extent, but if they are not, they may be lost. The ADBSS wanted to see the Department proceed work on new water developments within wilderness areas where a majority of the bighorn sheep habitat exists. There were numerous wilderness mountain ranges that needed water. The Department should not be reluctant to act on potential habitats because of the administrative challenges they present.

Director Shroufe commented that standards and guidelines for wildlife management on wilderness areas only pertain to BLM and the Forest Service. The management authority on the Barry M. Goldwater Range has been transferred from BLM to the Department of Defense (DOD). The guidelines are not valid there. He chaired a committee, consisting of BLM and the Forest Service, that was reviewing the guidelines. It was felt there were more aggressive stances that could be taken due to reauthorization of those guidelines. Work will be done to have the Service and DOD sign the agreement. Colonel Uken spoke with Director Shroufe regarding the cancelled project; Director Shroufe believed the issue could be solved in the next few days.

The Department would work with the ADBSS to evaluate their interests in developing new water developments in wilderness areas.

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Former Department Deputy Director Tom Spalding was recognized in the audience by Chairman Manning.

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3. Request for the Commission to Approve a Resolution Concerning the Need to Address Wildlife Resource Needs and Opportunities in Planning Efforts and Projects Associated with Forest Health and Forest Restoration

Presenter: John Kennedy, Habitat Branch Chief

On September 18, 2000, the Western Governors' Association (WGA), the Secretaries of Interior and Agriculture, the Director of the Bureau of Land Management, and the Chief of the Forest Service met to discuss the 2000 fire season, its magnitude, and what was needed to respond. Three agreements were made at that meeting:

- 1) Support for the funding levels and direction in *Managing the Impacts of Wildfires on Communities and the Environment: A Report to the President in Response to the Wildfires of 2000*
- 2) Collectively seek reimbursement for the costs expended by the states in fire fighting
- 3) Seek change in the way that public dollars were spent on fire-adapted ecosystems, i.e., there should be a shift to investing in restoring the health of forest ecosystems rather than appropriating emergency supplemental funds that respond to wildfires after the fact.

The result of these agreements were incorporated in the FY 2001 Department of Interior and Related Agencies Appropriation Act Report Language, P.L. 104-291, as follows: "The Secretaries should also work with the governors on a long-term strategy to deal with the wildland fire and hazardous fuels situation, as well as needs for habitat restoration and rehabilitation in the nation. The managers expect that a collaborative structure, with the states and local governments as full partners, will be the most efficient and effective way of implementing a long-term program." The Report language also states, "The managers direct the Secretaries to engage governments in a collaborative structure to cooperatively develop a coordinated, national 10-year comprehensive strategy with the states as full partners in the planning, decision-making and implementation of the plan."

Congress and federal agencies are focusing on the same issues.

The WGA is in the process of developing the 10-year comprehensive plan on *Wildland Ecosystem Health and Wildfire Threat*. The “AZ/NM 10-Year Program Proposal” responds to both U.S. Congress and WGA requests for developing aggressive long-term forest restoration programs. The goal of the 10-Year Program is to increase public understanding of the problems, increase partnerships through a collaborative program, restore forest and woodland landscapes, reduce fire risk, increase sustainable forest and woodland ecosystems, and to protect public and private land resources within the urban interface and wildland areas. This proposal is being developed as a federal, state, tribal, and local partnership with a focus at the local community level.

In response to wildland fire issues, Governor Hull asked the Arizona State Land Commissioner to convene a “Wildland Fire Summit”. On May 30, 2000, Summit participants identified ways to reduce the threat of wildfires by identifying mitigation measures and associated costs to prevent the potential for catastrophic wildfire in Arizona’s wildlands and urban interface. This information was used to develop the *Findings and Recommendations of the Wildland Fire Summit*.

On January 12, 2001, another Summit was convened to present the “AZ/NM 10-Year Program Proposal” to the federal, state, and local agencies and the general public. The purpose of the Summit was to solicit input on the Proposal and to identify key issues surrounding forest restoration and forest health. The final 10-Year Program will provide future direction for forest restoration activities in Arizona.

The Department intends to work with the land management agencies and wildlife conservation groups to insure that proposed forest health and forest restoration projects address the needs of wildlife. The Commission’s Resolution emphasizes the importance of incorporating wildlife-based research and wildlife resource needs in planning and projects associated with forest health and forest restoration. The Resolution also reaffirms the Department’s interest to be directly involved in the planning, decision-making, and implementation of plans and projects that are focused on forest restoration in Arizona.

The Resolution as presented at the meeting is included as part of these minutes.

Motion: Carter moved and Gilstrap seconded THAT THE COMMISSION VOTE TO ADOPT THIS RESOLUTION AS AMENDED.

Commissioner Carter explained his slight modification. Under “Now, Therefore, be it resolved,” where the second line starts with “Congress,” insert the words, “to provide and sustain this critically needed funding...” after the word “Congress.”

Director Shroufe stated that the Forest Service was looking forward to putting this money on the ground. A letter should be sent from him to the Acting Chief of the Forest Service, Regional Forester, with copies to the Forest Service Supervisors in Arizona to ensure that they know we need to push research and management issues with wildlife in concert with what they are trying to do with the fire situation in the urban interface.

Commissioner Carter suggested that if the motion passed, the resolution should be placed on the agenda for the WAFWA annual meeting. Copies should be sent to the Arizona congressional delegation since they are involved in the funding process. Commissioner Gilstrap suggested that this be followed up through the Western Governors' Association; Commissioner Manning added the International Association of Fish and Wildlife Agencies.

Vote: Unanimous

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Meeting recessed at 10:40 a.m.

Meeting reconvened 10:50 a.m.

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4. Statewide Shooting Range Project Update

Presenter: Kerry Baldwin, Education Branch Chief

Regarding Bellemont, Mr. Baldwin noted the Department received a price quote from a state contract appraiser for completion of a determination of market value for both the Sipe White Mountain Wildlife Area and Tract 39 of the Upper Verde River Wildlife Area, both of which can be completed in a 45-day period for \$12,500. The Commission may be asked to approve the funds for this appraisal at a future meeting. The requested funds are proposed to come from unallocated State Shooting Range Grant funds.

A Coconio County Board of Supervisors meeting was attended. The Board approved the initial plan for Lonnie McCleve to put 230 homes adjacent to the Range property.

For the past few months, there has been correspondence regarding the renaming of the Sierra Vista Shooting Range in memory of Stan Greer. The Club's preference is that they will be doing a memorial board with plaques, etc., with names of key individuals who played roles in the range's development. Greer would be given the center priority plaque.

The Tonto National Forest will be meeting with the Department regarding wildcat shooting areas in the east valley (Bull Dog Canyon and Wolverine) adjacent to the Salt River core and off Usury Pass. The Forest will be encouraged to build organized shooting ranges instead of just closing areas of wildcat shooting and not providing alternative areas to shoot.

There have been no discussions with Pima County on a shooting range site since the last meeting. Pima County wanted to start the project in August or September. He believed the architect had been contacted. Commissioner Carter hoped that the Department would continue its efforts to facilitate the progress of the project.

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5. Shooting Range Economic Development Committee

Presenter: Kerry Baldwin, Education Branch Chief

At the February 2001 Commission meeting, the Commission directed the Department to develop a draft Charter for a Ben Avery Shooting Facility (BASF) Economic Development Committee. The Commission further directed the Department to ensure that the rotating Commission Chairman and Commissioner Gilstrap were specifically included as members of the Committee.

The draft Committee charter is as follows:

- Title: BASF Economic Development Committee
- Mission: To ensure long-term viability of the Commission's Statewide Shooting Range Program
- Objectives:
1. To optimize compatible economic development opportunities with uses at Commission-owned shooting ranges
 2. To maximize revenues and generate the greatest possible long-term economic benefits from current or future shooting range assets
- Authorities: The Committee is authorized to meet and schedule its activities as necessary. The Committee may seek technical assistance from volunteers from the private sector or other government entities to assist in completing its assignment. Further, should they require assistance from elements of the Department not represented on the Committee, they are authorized to work through the Director's Office in order to seek that assistance.

Products and Deliverables:

1. A Gantt chart depicting the Commission's anticipated progress against goals during the next 12 months.
2. Written monthly briefings and updates on the Committee's progress.
3. A completed Request for Proposal associated with the lands identified for development at the BASF.
4. Completion of a formal recommendation package for economic development at the BASF.
5. An assessment of the potential for economic development at the current and future Commission-owned shooting ranges.

Commissioner Carter stated that after reviewing the documentation associated with the Shooting Range Economic Development Committee, he believed further clarification was required. He offered a motion for consideration.

Motion: Carter moved THAT THE COMMISSION VOTE TO ACCEPT THE COMMITTEE CHARTER AS PRESENTED AND APPOINT THE FOLLOWING POSITIONS AS DESIGNATED MEMBERS OF THE COMMITTEE:

1. CHAIRMAN OF THE COMMISSION
2. ONE OTHER MEMBER OF THE COMMISSION APPOINTED BY THE COMMISSION
3. ASSISTANT DIRECTOR FOR WILDLIFE MANAGEMENT

4. ASSISTANT DIRECTOR FOR INFORMATION AND EDUCATION
5. HABITAT BRANCH CHIEF
6. EDUCATION BRANCH CHIEF
7. FUNDS PLANNING MANAGER
8. BEN AVERY SHOOTING FACILITY MANAGER

For purposes of discussion, Chairman Manning seconded the motion.

Commissioner Golightly asked if the Commission would consider broadening the range of the Committee to have it more encompassing of future economic developments. Perhaps it could be called the Arizona Game and Fish Commission Economic Development Committee. It could meet on any economic development on Commission-owned lands. Commissioner Carter preferred to have the focus on statewide shooting ranges as it would provide a full menu; however, he would have no problem with changing the name.

Modified Motion: Golightly moved THAT THE TITLE OF THIS CHARTER COMMITTEE READ, "ARIZONA GAME AND FISH COMMISSION STATEWIDE SHOOTING FACILITY ECONOMIC DEVELOPMENT COMMITTEE. "

Commissioner Carter accepted the modification. Commissioner Golightly added another modification for consideration.

Modified Motion: Commissioner Golightly moved THAT NUMBER 8 INCLUDE "AND ANY OTHER DEPARTMENT-OWNED FACILITY REPRESENTATIVE."

Commissioner Gilstrap asked that the Committee be allowed to have some independence to not name any facility managers. Those persons could be brought into the Committee either as a resource or active members whenever appropriate. He did not want to name specific managers.

Commissioner Carter asked Commissioner Gilstrap if he would consider the shooting range managers as ex officio members. They needed to be involved in the process even though they would not be voting members. Commissioner Gilstrap concurred and the modification was seconded.

After further discussion, Commissioner Carter was concerned and wanted ex officio members limited to those shooting ranges that are Department-owned and operated.

Director Shroufe stated that since there were so many modifications to the original motion, he asked the Commission for a concise, clearly-worded motion. Chairman Manning and Commissioner Carter accepted withdrawal of the previous motions.

Motion: Carter moved and Golightly seconded THAT THE COMMISSION ACCEPT THE COMMITTEE CHARTER AS AMENDED TO READ "STATEWIDE SHOOTING FACILITY ECONOMIC DEVELOPMENT COMMITTEE" AND THAT THE COMMITTEE MEMBERS INCLUDE THE FOLLOWING:

1. CHAIRMAN OF THE COMMISSION
2. ONE OTHER MEMBER OF THE COMMISSION APPOINTED BY THE COMMISSION
3. ASSISTANT DIRECTOR FOR WILDLIFE MANAGEMENT
4. ASSISTANT DIRECTOR FOR INFORMATION AND EDUCATION
5. HABITAT BRANCH CHIEF
6. EDUCATION BRANCH CHIEF
7. FUNDS PLANNING MANAGER
8. RANGE MANAGER AS AN EX OFFICIO IN THOSE CASES WHERE THE DEPARTMENT OWNS AND OPERATES THE FACILITY

Vote: Golightly, Carter and Gilstrap – Aye
Chilton – Absent for Vote
Motion passed

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6. State and Federal Legislation

Presenter: Richard Stephenson, Legislative Liaison

H2225: Watercraft Violations. Passed out of the Senate Transportation Committee with a vote 5-3.

S1247: Watercraft; Registration Renewal. Passed out of the Energy, Utility and Technology Committee in the House by unanimous vote and will be heard in the House Natural Resources and Agriculture Committee.

S1248: Watercraft; Accidents Reporting. Passed out of the Natural Resources and Agriculture Committee in the House by unanimous vote and will move on to caucus and Committee of the Whole.

S1524: Hunting Contests is dead.

S1575: Watercraft Operator License. Failed on the floor of the Senate by a vote 11-18.

S1250: Shooting Ranges. Scheduled to be heard in the House Natural Resources and Agriculture Committee next Wednesday. It passed out of the Senate by a vote 28-1.

Director Shroufe gave a short update on CARA legislation. Congressmen Young and Dingell have reintroduced language in the House; it is the same language as last year. The intent is to get it out of the House quickly this year. Support is strong in the House again this year. Problems may occur again in the Senate. Secretary Norton indicated to the North American Wildlife Resources meeting last week that there were policies being constructed on \$450 million coming to state governors as the state side of the Land and Water Conservation Fund. When more information is received, there will have to be a meeting with Governor Hull about how funds would be distributed. He hoped to receive help from the Commission in contacting the Arizona delegation during recess in April. Director Shroufe already contacted Congressman Shadegg's office to have a meeting. Commissioners Carter and Gilstrap would assist in making contacts.

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7. Request to Approve a Renewal Agreement with KUAT-TV, Tucson, to Sponsor "The Desert Speaks" for FY 2000-2001

Presenter: Jim Burton, Assistant Director, Information and Education

Funding this year will be provided through Heritage Environmental Education carry-forward revenues.

Motion: Carter moved and Gilstrap seconded THAT THE COMMISSION VOTE TO APPROVE SPONSORSHIP OF THE TELEVISION PROGRAM, "THE DESERT SPEAKS", AND TO DELEGATE AUTHORITY TO THE DIRECTOR TO NEGOTIATE AN AGREEMENT ON BEHALF OF THE COMMISSION WITH KUAT-TV, TUCSON.

Vote: Unanimous

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9. Request for the Commission to Authorize the Department to Enter into a Collection Agreement with the Institute of Environment and Sustained Development of Sonora (IMADES) to Conduct Southwestern Willow Flycatcher Surveys in Sonora

Presenter: Bill VanPelt, Nongame Birds and Mammals Program Manager

Extensive surveys for southwestern willow flycatchers have been conducted in California, Arizona and New Mexico, but little or no information is available from Sonora, Mexico, which is thought to have potential breeding habitat. It is important to know the status and distribution of a species throughout its breeding range to determine recovery goals and work towards delisting of an endangered species.

The Sonoran Joint Venture (SJV) (a partnership organization whose mission is the conservation of all bird species within the Sonoran Desert region in the U.S. and Mexico) recommended willow flycatcher surveys in Sonora as one of its first projects. The SJV has solicited funding from the U.S. Bureau of Reclamation (BR) to send to IMADES. IMADES will then distribute the money to the Mexican biologists who will be conducting the surveys. The Game and Fish Department (a member of SJV) will act as a conduit to transfer the money from BR to Mexico and will provide technical training.

This project will provide training opportunities and technical assistance to natural resource managers and biologists in Mexico to help them identify southwestern willow flycatchers, the habitats they occupy, and the methods needed to survey for them. The U.S. Fish and Wildlife Service (FWS) is attempting to arrange funding for the Mexican biologists' travel to Arizona to attend the existing willow flycatcher training workshop scheduled for May 9-10.

The BR is aware that the Department will retain a portion of the grant for its own operational expenses with the remainder being sent to Mexico. Population assessments of the willow flycatcher in Mexico will directly benefit existing conservation efforts in Arizona.

Mr. Van Pelt stated costs to the Department would be minimal. There would be some initial time investment needed from Funds Planning and Nongame Branch personnel. The study plan for the project would be written by SJV members. The only deliverable would be a report to BR. The Department would be adding an 18% overhead charge to the agreement with BR to cover the Department's support services' costs.

Commissioner Carter asked if there was an agenda that focused on down or delisting based on this data in part and would it be acceptable to the U.S. Fish and Wildlife Service. Mr. Van Pelt stated the FWS was in the process of finalizing the recovery plan for the southwestern willow flycatcher. The recovery plan would contain goals and objectives identified for the species.

Commissioner Chilton stated the FWS refuses to consider the health and abundance of the species community in Mexico in its recommendations for downlisting or delisting. She wanted to actively advocate for FWS to take all biological science into account and not make an arbitrary line at the border. The species' range and health in that range should be considered. Our actions to support collection of scientific data that furthers the knowledge of the species in Mexico and in the United States would be worth the trouble.

Motion: Gilstrap moved and Golightly seconded THAT THE COMMISSION VOTE TO AUTHORIZE THE DEPARTMENT TO DEVELOP, EXECUTE, AND AMEND AS NECESSARY AGREEMENTS WITH THE INSTITUTE OF ENVIRONMENT AND SUSTAINED DEVELOPMENT OF SONORA TO IMPLEMENT WILLOW FLYCATCHER SURVEYS IN SONORA AND AUTHORIZE THE DIRECTOR TO EXECUTE AND AMEND THE AGREEMENT AS NECESSARY.

Chairman Manning and Commissioner Gilstrap agreed with Commissioner Chilton's comments.

Vote: Unanimous

Director Shroufe noted there were problems in the past due to lack of data. Once data was gathered in a species' range, the Commission could petition with that data for the species to be delisted.

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10. Call to the Public

Tom Spalding, representing self, stated Pima County released the public draft of the Sonoran Desert Conservation Plan. The Commission will need to know about it in the future. It was basically a plan to address some of the issues related to pygmy owls, other endangered species and open space. He thought it was a good plan, but he had one problem with it. Part of the plan was to create a lot of open space and mountain parks throughout Pima County and southern Arizona. These areas would encompass some of the finest hunting areas in the County. The plan is somewhat controversial. The Commission should offer support but specify in writing that support would only be given if public hunting in mountain parks is a legitimate form of use. The Commission should consider putting this issue on its agenda for either the April or May meetings, and include presentations by the Department and County.

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Meeting recessed at 11:50 a.m.

Meeting reconvened 1:30 p.m.

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Mr. Adkins and Commissioner Chilton were absent at the afternoon session.

11. Hearings on License Revocations for Violation of Game and Fish Codes and Civil Assessments for the Illegal Taking and/or Possession of Wildlife

Presenter: Leonard Ordway, Law Enforcement Branch Chief

Record of these proceedings is maintained in a separate minutes book in the Director's Office.

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12. Appeal of Department's Refusal to Refund Expense, Reinstate Bonus Fees or Guarantee Tag for 2001 – Mr. Robert Haskin

Presenter: Ron Sieg, Region II (Flagstaff) Supervisor

On December 4, 2000, Robert Haskin contacted Mr. Sieg stating that the hunt unit description for the Red Hill/Sunset subunit of Unit 5A was incorrect in the 2000-2001 Arizona hunting regulations. Because of this error, he did not have the opportunity to hunt the entire subunit and have an equal chance to harvest an elk. Mr. Haskin stated his son-in-law also received the same tag and hunted with him. Mr. Haskin stated the Department should refund his expenses (\$160 plus the cost of the tag [\$76.50]), reinstate his bonus points or issue him an elk tag for 2001.

Mr. Haskin noted he was only able to hunt Friday and Saturday (December 1-2) as his mother had died on Wednesday evening. He interpreted the description of the unit boundaries as allowing hunting only on the Clear Creek side of Highway 87. Mr. Haskin had explained that he had seen an elk on the west side of the highway but thought it was out of the unit. Mr. Haskin stated the Department description of the unit should state that the unit lies west of Forest Service Road 319. The subunit description was clarified for Mr. Haskin on December 4, leaving him three more hunting days during the season.

Mr. Haskin explained that on Saturday another hunter showed him a map that he had received from the Department's regional office in Flagstaff. This map showed the unit on both sides of Highway 87; however, Mr. Haskin was uncomfortable relying on the map since it did not indicate that the Department distributed it.

The hunt in question was Hunt Number 3042 (antlerless elk hunt) open during December 1-7, 2000. The description of the unit is covered under note 14 on page 34 of the hunt regulations, and states, "Red Hill/Sunset Mountains Hunt Area in Unit 5A-that portion of Unit 5A located north and east of the following road: Beginning at the junction of AZ Hwy. 87 with F.S. 319E, southeasterly on F.S. 319E to F.S. 319D, southeasterly on F.S. 319D to the end of the road at East Clear Creek."

Mr. Sieg had agreed with Mr. Haskin that the description could have been written more clearly and offered to correct future hunt guidelines, clarifying this issue by stating both sides of Highway 87 were open as part of this subunit. He further explained that the subunit map distributed by the Region would be modified to identify the map as being distributed by the Department.

Mr. Sieg told Mr. Haskin that he could not authorize any of the claims Mr. Haskin was presenting. Mr. Sieg told Mr. Haskin that he could write to the Director and request an investigation into the matter. Mr. Haskin did so on December 5, 2000. Director Shroufe responded to Mr. Haskin's letter on December 27, 2000. In this letter, it was stated, "In reviewing the description of the Red Hill/Sunset Mountains hunt area (elk note 14 in the hunt regulations book), it appears that the key to understanding the description lies in interpreting how Highway 87 runs through the hunt area. In this unit, the highway runs southwest to northeast. Therefore, elk note 14 stating 'that portion of Unit 5A located north and east of the following road...is correct'."

The letter further stated, "Regarding the map that the hunter showed you depicting the Red Hill/Sunset Mountains hunt area, this is one of several maps of the hunt subunits that the Flagstaff region developed to assist hunters in more clearly interpreting hunt boundaries. We will enhance future versions of these maps to reflect that the Department puts them out and will more widely advertise their availability.

"While I understand that there were other personal factors that limited the amount of time available for you to hunt during this season, the boundary issue was clarified to you by the Department by December 5. This still allowed for some remaining hunt opportunities for you during the hunt period you were drawn for. Again, I am sorry your hunt experience did not meet your expectations. However, since you did have the opportunity to hunt, I have no statutory authority to grant any of the options you proposed."

Mr. Haskin decided to appeal the Department's decision to the Commission and was present at today's meeting.

Mr. Haskin believed elk note 14 to be flawed and those who were not given this additional map information with the permit were discriminated against.

Further discussion occurred regarding the unit boundary. Commission Manning wanted legal advice on the Commission's authority.

Motion: Carter moved and Golightly seconded THAT THE COMMISSION GO INTO EXECUTIVE SESSION FOR LEGAL ADVICE ON THIS MATTER.

Vote: Golightly, Carter and Gilstrap – Aye
Chilton – Absent
Motion passed

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Meeting recessed at 3:04 p.m.

Meeting reconvened 3:29 p.m.

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Regarding reimbursement of out-of-pocket expenses, Commissioner Carter stated that based on legal advice from counsel, the Commission was not in a position to do so. The appropriate state agency would be the State Risk Management Office.

Commissioner Gilstrap stated that as a hunter, it was Mr. Haskin's responsibility to be familiar with the area where he was hunting. The question in this case was whether or not the Department confused the issue. Most hunters in that hunt were not confused.

A motion was made for discussion purposes.

Motion: Carter moved and Chairman Manning seconded THAT THE COMMISSION VOTE TO DENY MR. HASKIN'S CLAIM FOR REINSTATEMENT OF BONUS POINTS AND REQUEST FOR AN ELK TAG FOR 2001.

Mr. Haskin stated that in looking at the hunt regulations, there were two numbers next to the hunt number. The numbers refer to pages on notes on elk, which are 8 and 14. Fourteen gives the description of the unit boundaries. By definition, that description is confusing and the Department has admitted it was confusing by putting out a map to clarify it.

Commissioner Golightly wondered how many unsuccessful hunters in that area would come to the Commission and request another tag. He did not want to set a precedent for a bad situation; he did not want it to turn worse.

Vote: Carter – Aye
Golightly and Gilstrap – Nay
Chair voted Aye
Chilton - Absent
Motion failed to pass

Motion: Carter moved and Gilstrap seconded THAT THE COMMISSION VOTE TO DENY MR. ROBERT HASKIN'S CLAIM FOR REFUND OF EXPENSES, REINSTATEMENT OF BONUS POINTS BUT AUTHORIZE THE DIRECTOR TO ISSUE HIM AN ELK PERMIT FOR 2001 IN AN AREA TO BE DETERMINED AT THE DIRECTOR'S DISCRETION.

Chairman Manning noted Unit 5A would not be in existence for the next elk season. Director Shroufe stated it should be clear the tag would be for a cow elk.

Mr. Haskin asked if the tag would be only for him or for him and his son-in-law since they both put in together in the draw. Mr. Odenkirk stated there was a petition from Mr. Haskin appealing on his own behalf and that was before the Commission now. There should have been a separate petition for a hearing for his son-in-law.

Vote: Golightly, Carter and Gilstrap – Nay
Chairman voted Nay
Chilton – Absent
Motion failed to pass

Motion: Golightly moved and Carter seconded THAT THE COMMISSION VOTE TO DENY MR. HASKIN'S CLAIM FOR REFUND OF EXPENSES, REINSTATEMENT OF BONUS POINTS AND ISSUANCE OF A NEW ELK LICENSE FOR 2001.

Vote: Golightly, Carter, and Gilstrap – Aye
Chilton – Absent
Motion carried

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13. Commissioner Representation at Organizational Banquets

Presenter: Duane L. Shroufe, Director

Individual commissioners represent the Commission at various organizational banquets, such as those sponsored annually by the Arizona Desert Bighorn Sheep Society, Rocky Mountain Elk Foundation, and Trout Unlimited. To more efficiently represent the Commission at these events, individual commissioner commitments would be made to specific events.

Director Shroufe noted that at, this time, the Department was unable to provide to the Commission the Assistant Attorney General's opinion regarding the status of going to functions on a free ticket or a state paid ticket. It was his understanding that Mr. Adkins had written the opinion, but due to clearances now due at the Attorney General's office, it was in the chain of command. An answer was expected within the next week or two. Until information is received from the Attorney General's Office, the Commission should follow the Director's June 8, 2000 memo.

Chairman Manning stated he wanted Commission coverage at functions where Commission issued tags were at stake, e.g., Rocky Mountain Elk Foundation (RMEF), Mule Deer Association, Safari Club International and the National Wild Turkey Federation. Director Shroufe noted that some of the groups now have paid lobbyists, e.g. RMEF and the Mule Deer Association.

Motion: Carter moved and Gilstrap seconded THAT THIS ITEM BE TABLED.

Vote: Golightly, Carter and Gilstrap – Aye
Chair voted Aye
Chilton – Absent
Motion carried

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14. Director's Goals, 2001

Presenter: Duane L. Shroufe, Director

A draft list of goals had been distributed to the Commission earlier in the day.

Commissioner Carter had a question related to enhancement of statewide image. He wanted to see categories prioritized to have the Director's highest level of manpower resources focused on local and Arizona issues. The next priority should have emphasis

on regional issues in the Southwest. The final component should have emphasis on national issues. In the past, the focus had not been on local and statewide programs. Item 3 should be amended to prioritize emphasis on 1) local; 2) Arizona; 3) regional and 4) national issues.

Commissioner Golightly raised the issue of retaining as a goal the Bellemont shooting range. Commissioner Golightly suggested inserting the word “Aggressively” before “pursue”. Commissioner Carter asked Director Shroufe how he viewed this in terms of a statewide plan. Director Shroufe felt the Department had gone through great lengths to inventory where ranges were now and to address needs on those ranges. Director Shroufe stated this meant going one step further to look at the state by regions or urban areas and by needs to try to identify in a long-term formal plan where the Department thought it should build or enhance existing shooting ranges. The Department would aggressively work in those areas to bring a plan for Commission approval. A plan was critical on a proactive basis.

Motion: Golightly moved and Carter seconded THAT THE COMMISSION ACCEPT THE DIRECTOR’S GOALS AS STATED WITH THE FEW AMENDMENTS THAT WERE ADDED.

Vote: Golightly, Carter and Gilstrap – Aye
Chilton - Absent
Motion passed

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15. Call to the Public

There were no comments.

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16. Director’s and Chairman’s Reports

Director Shroufe noted the Commission was provided with Division updates. He attended the Common Ground workshop in Clifton and attended a Barry M. Goldwater Range Executive Committee meeting.

Director Shroufe attended the North American Conference in Washington, D.C. last week. Many local and Arizona issues were covered during that time.

Chairman Manning attended the cattlegrowers/sportsmen/landowners meeting with the Director and Commissioner Carter. The purpose of the meeting was to set up a symposium to acquaint the public with the proposed “depredation” hunts. This symposium would run concurrently with the Arizona Mule Deer Association banquet at the Civic Plaza in a few months. He attended a legislative hearing. He attended the banquet given by the Arizona Desert Bighorn Sheep Society. The antelope tag went for \$40,000; \$7,000 was paid for the buffalo tag.

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17. Commissioners' Reports

Commissioner Carter attended the Clifton Common Ground workshop with Director Shroufe and Richard Remington. He participated in the BLM Gila Box Advisory Committee meeting in Safford. He attended hearings in the Legislature. Commissioner Gilstrap and he attended a meeting with Representative Gray regarding the Shooting Range Trust Fund. He talked with Mrs. Cowan on the phone regarding the proposed by-pass road on her property and later toured the site for the proposed road. The Director, Commissioner Gilstrap and he met with members of the Heritage Alliance Committee about the future of Heritage funds.

Commissioner Gilstrap attended the Arizona Flycasters Club banquet; a good deal of money was raised. He attended the Heritage Alliance meeting and from that came a recommendation and delegation for John Hayes and him to meet with the Governor on April 19. He attended a meeting in Las Cruces of a new ranch group; he listened to positive experiences related to habitat improvements. The concepts they were proposing were the kind people should be embracing in Arizona. He thought the Commission could become aware of and disseminate some of the materials that were at the meeting; it would be good resource to tap into and expand to Arizona. He attended the Sports Afield Fair in San Antonio; it was very beneficial.

Commissioner Golightly gave no report.

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14. Director's Goals, 2001 – cont'd.

Director Shroufe asked for clarification regarding one of his goals. Commissioner Golightly wanted to insert the word "Aggressively" before "Pursue new shooting ranges". He needed to know if Bellemont should be included in the goal. The Commission agreed it should.

Under Paragraph 5, the goal should read, "Aggressively pursue the Bellemont acquisition and activation."

Motion: Golightly moved and Carter seconded THAT THE COMMISSION APPROVE ADDING TO THE DIRECTOR'S GOALS FOR 2001, "TO ACTIVELY PURSUE THE CONSTRUCTION AND IMPLEMENTATION OF THE BELLEMONT SHOOTING RANGE."

Vote: Golightly, Carter and Gilstrap – Aye

Chair voted Aye

Chilton – Absent

Motion passed

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18. Approval of Minutes

Motion: Gilstrap moved and Golightly seconded THAT THE COMMISSION APPROVE THE MINUTES FOR FEBRUARY 23-24, 2001.

Commissioner Carter needed clarifications on a few issues. On page 14 of the February minutes, the motion should read "GAUGE THE INTEREST," not "ENGAGE INTEREST." He wanted the motion amended. He needed to better understand what was written vs. what occurred dealing with the Cross L in the second paragraph on page 8. It was Commissioner Carter's understanding that the intent of the Commission was to have it run concurrently. Director Shroufe believed the sentence was taken out of context. It was the Commission's decision; nothing was provided to the Commission indicating that it could not be done. The latter part of the sentence was correct in the fact that the direction received was concurrent. The subleases would expire in a few years. The context of Mr. Kennedy's remarks was that there was nothing that bound the Commission into a timeframe.

Vote: Golightly, Carter and Giltrap – Aye
Chilton – Absent
Motion passed

The minutes for November 20, 2000, January 3, 2001 and January 19, 2001 were signed.

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Motion: Carter moved and Chairman Manning seconded THAT THE MEETING ADJOURN.

Vote: Golightly, Carter and Gilstrap – Aye
Chairman voted Aye
Chilton- Absent
Motion passed

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Meeting adjourned 4:19 p.m.

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Saturday, March 24, 2001 – 8:00 a.m.

Chairman Manning called the meeting to order at 8:02 a.m. Members of the Commission and Director's staff were introduced. The meeting followed an addendum dated March 16, 2001.

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1. Request to Approve a Notice of Rulemaking Docket Opening for Article 5, Boating and Water Sports Rules

Presenter: Mark Naugle, Rules and Risk Management Manager

(For additional background information, see Commission meeting minutes for January 19, 2001, page 11 and for October 21, 2000, pages 30-31.)

If approved by the Commission, the Notice of Rulemaking docket Opening will be filed with the Secretary of State by March 30, 2001, for publication in the *Arizona Administrative Register* on April 20, 2001. The anticipated effective date for the Article 5 amendments will be July 1, 2002.

Motion: Carter moved and Gilstrap seconded THAT THE COMMISSION VOTE TO APPROVE A NOTICE OF RULEMAKING DOCKET OPENING FOR THE AMENDMENT OF THE ARTICLE 5 RULES IDENTIFIED IN THE FIVE-YEAR RULES REVIEW REPORT APPROVED BY THE COMMISSION AT THE OCTOBER 21, 2000 AND JANUARY 19, 2001 COMMISSION MEETINGS.

Vote: Unanimous

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2. Request to Approve a Notice of Rulemaking Docket Opening for Article 7, Heritage Grant Rules

Presenter: Mark Naugle, Rules and Risk Management Manager

(For additional background information, see Commission meeting minutes for October 21, 2000, page 31.)

If approved by the Commission, the Notice of Rulemaking Docket Opening will be filed with the Secretary of State by March 30, 2001, for publication in the *Arizona Administrative Register* on April 20, 2001. The anticipated effective date for the Article 7 rule amendments will be July 1, 2002.

Motion: Carter moved and Gilstrap seconded THAT THE COMMISSION VOTE TO APPROVE A NOTICE OF RULEMAKING DOCKET OPENING FOR THE AMENDMENT OF THE ARTICLE 7 RULES IDENTIFIED IN THE FIVE-YEAR RULES REVIEW REPORT APPROVED BY THE COMMISSION AT THE OCTOBER 21, 2000, COMMISSION MEETING.

Commissioner Carter asked several questions for clarification. He asked if the decline in the revenue stream overall would have a negative impact on the number of opportunities or grants awarded. Mr. Naugle stated the five-year rules review team recommendation to increase the grant minimum to \$1000 was due in part to record keeping and administering the grants exceeding the \$500 level. Historically, it has not been an issue.

Vote: Unanimous

Commissioner Gilstrap added that if the costs of administration might exceed or be equal to \$500 per grant, it might be good to see how that could be streamlined and reduced.

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4. Request to Approve an Extension of the Rulemaking Timeline for Pending Article 4, Live Wildlife Rule Modifications Identified in the 1998 Five-Year Rules Review Report

(For additional background information, see Commission meeting minutes for September 19, 1998, pages 16-17; June 19, 1999, page 26; and January 19, 2001, pages 11-13.)

Personnel changes in the Department's Rules and Risk Management Section (DORR) left a continuity gap that has hampered the Department's efforts to complete the Article 4 rulemaking process as outlined in the revised rulemaking schedule. Further evaluation of

pending Article 4 rulemaking was undertaken by DORR as a part of the 2001-2002 rules planning. The Department determined that the complexity of the remaining amendments to the Article 4 rules, along with the potential impact on the public, warrant even more development time to ensure that the benefits of rulemaking outweigh any costs to the public. R12-4-401, 405, 406 and 410 comprise the remainder of the Article 4 rules identified in the 1998 Five-year Rules Review report as needing modifications.

The Department concluded that the rulemaking schedule for the remaining rules needed to be modified to include opportunities for additional public input regarding any rule changes. This will require a four-phase approach to the rulemaking process:

1. The development of a process plan for comprehensive public input
2. The public input process
3. The internal Department rulemaking process
4. The external rulemaking process

The Department anticipates completion of the first two phases of the process by August 2003. The third phase will run concurrently with the next five-year Rules Review of Article 4, which is scheduled to begin July 2002 for submission to GRRC in December 2003. Phase four could then begin in January 2004, with an anticipated completion date of fall 2004.

Motion: Carter moved and Gilstrap seconded THAT THE COMMISSION VOTE TO APPROVE MODIFICATIONS TO THE PENDING ARTICLE 4, LIVE WILDLIFE RULEMAKING TIMELINE, TO ALLOW FOR SUFFICIENT OPPORTUNITY FOR ADDITIONAL PUBLIC INPUT AND FURTHER INTERNAL DEPARTMENT STUDY OF THE IMPACT OF ANY PROPOSED RULE CHANGES

Vote: Unanimous

As a point of clarification, the Department recommended that the Commission approve the four-phase rulemaking process for Article 4 outlined in the Commission memo and on the attached rulemaking schedule.

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3. Presentation of the Elk Harvest Management Strategy Team Report and Recommendations

Presenter: Richard Remington, Region I (Pinetop) Supervisor

(For additional background information, see Commission meeting minutes for January 3, 2001.)

Opening remarks were given by Mike Senn, Assistant Director for Field Operations. Subsequent to the January 3 Commission meeting, the Director ordered a Team of Department personnel experienced in elk management to be established. The Team was comprised and chartered to resolve long-standing issues and concerns brought by the State Habitat Partnership Committees, Forage Resource Study Group and private landowners.

The Team was formed to address the Department's current inability and current structure of management options and strategies to resolve elk conflicts in areas it considered outside traditional or core elk habitat areas. These were areas where elk had become established that were traditionally winter range and areas of private land or agricultural cropland.

Internally, there was a need to look at regulations, systems and processes to provide greater flexibility to specifically to address these individual resource needs.

The Team was comprised of Department managers; there were wildlife managers and field supervisors from throughout the state and all of the Regions except Tucson. Also involved were Regional Supervisors and Game Specialists from Regions I and II, the Big Game Supervisor and Game Branch Chief.

The Team was established for two purposes:

- 1) To develop short-term strategies within existing Commission Orders and Department systems to be brought forward at the April Commission meeting to be included in the fall 2001 hunt Orders to address elk numbers on private lands. These harvest strategies were designed to address private land elk depredation and public land resource issues within Arizona.
- 2) To develop long-term solutions that may require changes in Department systems and Commission rules that are needed to provide maximum flexibility to elk managers and minimum impact on hunter constituents to relieve private land/public land elk issues within Arizona.

A presentation was given on the actions proposed for the short-term, i.e., for the fall 2001 hunts, and long-term actions.

Mr. Remington, Team leader, continued with a PowerPoint presentation.

The first objective of the Team was to develop harvest strategies within existing Department rules that would be presented at the April 2001 Commission meeting that would begin to address elk management issues in Arizona. The Department has developed limited population hunts to meet that objective.

Hunts recommended as amendments to the December 11, 2000 hunt guidelines were presented. Hunts in Region I were intended to reduce elk populations where they were in conflict with private land interests. Hunts in Region II were to address yearlong resident elk on traditional winter range in Units 5A and 5B and to attempt to eliminate elk on the Kaibab plateau. Limited population hunts were also recommended in Region III; these hunts were primarily designed to begin to manage some exploratory herds and resident elk herds that are becoming established in several units. Region V will offer two hunts to address elk that periodically travel off the San Carlos Reservation and to manage a small resident herd in Unit 31. Region VI will be offering several limited population hunts in Units 22 and 23.

The Department recommended that the Commission vote to amend the 2001/02 Hunt Guidelines passed at the December 2000 Commission meeting to include the new proposed hunts as presented in Commission Order format.

Depending on action taken at the April Commission meeting, there would be an increase of 4000 elk permits over last year.

The Department further recommended that the Commission vote to modify Commission Order 4 in the 2001/02 Hunt Proclamation by adding a separate hunt type category for these defined limited elk population hunts.

The Department further recommended that the Commission vote to exempt "Limited Elk Population Hunts" from the weapons and Juniors hunt allocation formulas.

The Department further recommended that the Commission vote to increase the bag limit to two elk per calendar year. The second would be taken with a second elk permit available after first come-first serve through the mail, when permit tags would be available over the counter. This recommendation requires amendments to the Hunt Permit-Tag Application Schedule and Commission Order 4.

The Department recommended further evaluation of potential consequences from a spring elk hunt opportunity. A spring hunt may help reduce private land and elk conflicts; however, there are several issues that need further review:

1. R12-4-104 would have to be reviewed if a spring elk drawing occurred. Section C.9.b. allows for turkey and buffalo hunters to re-apply in the fall if they drew a tag in the spring and were unsuccessful. Adding elk to that list would be consistent with the other species that have both fall and spring permit tags.
2. The bonus point with offering a point in the spring may cause concern regarding the 10% rule, which may require review of R12-4-107.
3. Harvesting cow elk late in pregnancy should be covered in the public information product to reduce potential public criticism.
4. Timeframes for addressing any recommended amendments to R12-4-104 and R12-4-107 begin July 2002 for normal review process. The normal rule review process would not be completed until February 2004. In accordance with the Department's Operating Manual, Section J, these rules could be taken out of normal cycle and amendments could be accomplished in a minimum of 12 months.

Commissioner Carter asked what the impact was of these limited hunts. Mr. Remington stated these hunts impact less than 5% of the total elk population. Most of the elk population are within standard elk management areas and units and would not be impacted by these hunts. The proposed limited hunts are for very specific areas for specific purposes.

Commissioner Carter asked what the rationale was to exclude the youth hunts. Mr. Remington stated the hunts would be difficult hunts and would not be the traditional quality hunts. The intent of the hunt was to try to align hunters in very tightly controlled areas on private lands. Hunt success may be lower than in standard hunts.

Commissioner Carter thought the most important message the Department can convey is that these hunts would cause a minimal impact on the herd as a whole. Also, the Department was working towards a long-range objective that insures that we sustain

the premier quality of the herd and to try to do so on public lands. This tied into the resolution that was voted on yesterday by the Commission regarding forest health issues.

Mr. Remington continued. The second objective of the team was to develop long-term solutions that may require review and amendments to existing Department rules and systems. To meet these objectives, the Department was recommending new statewide elk management guidelines.

The guidelines would include defining all areas occupied by elk and analyzing those with standardized criteria and classifying distributions into one of three separate management zones. These zones are: Standard Population Management; Winter Range Population Management and Limited Population Management. Each would have specific management objectives and harvest alternatives. Each zone would have specific goals related to private land conflict resolution alternatives.

Field Operations Division personnel will analyze all occupied elk habitat. Management zone mapping criteria would be presented to critical stakeholders in a public review process. Zone management maps for those affected game management units would be produced and will delineate portions of each of those game management units that would be designated under one or more of the management zones. The maps would be included in the regional Elk Operational Plan and finalized elk management guidelines, which would include management zone criteria, would be incorporated into the Department's elk species management guidelines.

A copy of the chart summarizing zone information in Mr. Remington's presentation is included as part of these minutes.

The Commission could consider unlimited nonpermit elk tag hunts occurring concurrent with other permitted big game hunts in specified game management units that have been authorized by Commission Order. These elk hunt permit tags would be available for hunters possessing permit tags for other big game species and would be valid concurrently with other big game hunts. This harvest alternative may not be immediately feasible. The strategy would probably require a rule change allowing restrictions of these elk tags to hunters drawn for other big game tags and would require review of rules R12-4-104, 114, and 309.

Rule R12-4-309 was discussed. Article 3 was currently under review for the five-year rule review process. The review started in January.

The Department recommended the Commission vote to direct the Department to adopt the following actions to implement the Zone Management Guidelines.

1. Draft management zones mapping criteria, scope management zone mapping criteria through public review, and produce management zone maps.
2. Incorporate management zone objectives within hunt guidelines.
3. Incorporate management zone criteria within species management guidelines.
4. Incorporate management zone maps within regional elk operational plans.
5. Incorporate new survey protocol within the elk species management guidelines when the Big Game Survey Team finalized this new protocol.

6. Solicit an opinion from the Attorney General on the legality of holding depredation hunts under Commission Rule R12-4-115 on public lands to address conflicts occurring on adjacent private lands.

The Department recommended further evaluation of the following actions to determine what amendments may be necessary to completely implement the proposed Elk Management Guidelines.

1. Commission review and action on pertinent rule changes, including R12-4-104 (definitions), R12-4-104 (spring draw), R12-4-107 (bonus points), R12-4-114 (nonpermit-tag sales) and R12-4-309 (restricted hunts). The normal rule review process for Article 1 would begin in July 2002 and would be completed in February 2004. Currently, R12-4-309 and R12-4-609 are in the rules review process.
2. Review of ARS Title 17 for legality and compatibility of proposed rule changes.
3. Evaluate the potential for the Commission review of R12-4-102 to reduce fees for elk nonpermit tags should the current fee structure impede the ability to achieve management objectives.
4. Evaluate the option of developing pre-established hunter pools to address unplanned harvest opportunities. This review would include evaluations of the current depredation rule and Commission Order.
5. Develop a Department policy describing situations that would warrant the declaration of an emergency season under Commission Rule R12-4-609B.
6. Evaluate the potential for increasing the bag limit for elk to two per calendar year, with the restriction that one elk may be taken with a permit tag and one elk with a nonpermit tag.

The Team evaluated the current statute and rule that would allow the Department and Commission flexibility to address depredation situations with elk. A process map of the current Department process was contained in the Appendix of the report. Mr. Remington briefly described the process.

The Team wanted to propose alternatives to meet some situations where current rules and emergency hunt definitions may not contain the necessary flexibility.

Alternatives include:

1. Use of the Commission Public Review Process
2. Establishing a "Hunter Pool"

The Team's preferred alternative to establishing non-traditional elk hunts outside of depredation hunt structures is for the Commission to adopt a rule that delegates the Commission's authority to the Director to initiate covering selected areas that have been established by Commission Order. The hunt units would be established with maximum numbers of tags or take quotas and a long season. Further, the Director's authority would be extended to allow him to specify when and where to use these hunts allowing each Region to have a hunter pool and pre-randomized by a draw process available to immediately address situations as they arise.

The process to remove elk would then consist of several steps:

1. The landowner, land management agency and Region would review the on-the-ground situation and explore options.
2. If population reduction is collectively viewed as the only viable option, the landowner, land management agency and Region would agree to an area where the hunt would be most effective, agree on a number of animals to be removed and agree on a timeframe for removal. The landowner could specify conditions for hunter access, as private property owner, but would have to agree to open his private land to these hunters.
3. The Region would develop a proposal in consultation with the Game Branch.
4. The Region would submit the proposal to the Assistant Director (AD) of Field Operations for review.
5. If the AD for Field Operations concurs with the proposal, the hunt would be recommended to the Director for approval.

The creation of nonpermit elk tags and hunts could be developed to address the issues as well.

The Department recommended further evaluation of the following necessary items to implement alternative hunt procedures to R12-4-115.

1. Further evaluate ARS Title 17-239 to determine if it would allow depredation hunts on public land to assist in alleviating damage to private land.
2. Development of a rule allowing the Commission to delegate authority to the Director to establish hunt units covering selected areas within limited population elk management zones. Further, the Director's authority would be extended to allow him to specify when and where to utilize these hunts and establish tag numbers or quotas and timeframes.
3. Establish procedures for what constitutes an emergency under R12-4-609 to provide a framework for the Director to use in situations requiring fielding hunters on short notice to address habitat or private land issues should normal hunting seasons not meet objectives.

Mr. Remington presented the Outreach plan.

The Team developed an Outreach plan designed to inform all constituents of the rationale behind the recommendations that have been built by the Department's elk managers.

The recommendations provide important flexibility to manage elk on a case-by-case basis. Not all harvest strategies would be used on all hunts, units or subunits. The harvest and management strategies will not change significantly from current management in the standard population management zones. A majority of occupied elk habitat in the state will be designated standard population management. The net result will be a drastic reduction in substantiated elk depredation complaints in peripheral areas while maintaining top quality elk herds.

In order to accomplish short-term goals of the Outreach plan, the following information tools must be developed:

1. A clear and concise overview piece for the stakeholders, media and general public explaining what is being proposed and why
2. Specific on-the-ground examples will be provided of elk-conflicts and how those conflicts will be addressed through what is being proposed.

Several pre- and post-April Commission meeting action items were given.

The Department recommended to the Commission that the Commission provide direction to the Department to develop an information packet and dissemination process to all stakeholders to create an informed public concerning elk management in Arizona.

Chairman Manning had reservations about spring hunts; to him, it should be the last alternative to implement any of the objectives. The public might have a perceived problem.

Members of the public giving comment:

Benny Aja, representing self, supported many of the recommendations brought forth today. He had concerns with a spring elk hunt. In view of the drought situation not being known until July or August, the Habitat Partnership Committees could develop some teams that would change the submittal process of spring hunt applications. Instead of October, the applications could come earlier in the year. Units such as 7, 8, or 10 could be added to late December hunts. Those units are not in any of the limited hunt opportunities at the current time.

Jack McCall, Vice Mayor of the Town of Eagar, stated there were problems with the number of elk that have come into the city limits the last few years, e.g., golf course.

Commissioner Carter thought the next critical component was to put together the I&E component and convey the message to the constituents of the Department and public in general. This information should be sent out as soon as possible to allow for public review and comment before the April Commission meeting. Background information focusing on the credentials and expertise of the Team that put this strategy together should be noted. The message should also note that the limited hunt approach deals with a small portion of the elk population.

Commissioner Gilstrap thought that organizations, such as the Rocky Mountain Elk Foundation, may want to do some feature articles on this. This deserves national attention.

Motion: Carter moved and Gilstrap seconded THAT THE COMMISSION VOTE TO AMEND THE 2001/02 HUNT GUIDELINES PASSED AT THE DECEMBER 2000 COMMISSION MEETING TO INCLUDE THE NEW PROPOSED HUNTS AS PRESENTED IN THE ABOVE COMMISSION ORDER FORMAT.

Vote: Unanimous

Motion: Carter moved and Gilstrap seconded THAT THE COMMISSION VOTE TO MODIFY COMMISSION ORDER 4 IN THE 2001/02 HUNT PROCLAMATION.

Vote: Unanimous

Motion: Carter moved and Gilstrap seconded THAT THE COMMISSION VOTE TO EXEMPT LIMITED ELK POPULATION HUNTS FROM THE WEAPONS ALLOCATION FORMULA AND THE JUNIORS ONLY HUNT ALLOCATION. THESE HUNTS HAVE A SPECIFIC MANAGEMENT OBJECTIVE TO REDUCE ELK POPULATIONS WHERE CONFLICTS EXIST WITH OTHER LAND USES.

Vote: Unanimous

Motion: Golightly moved and Carter seconded THAT THE COMMISSION VOTE TO INCREASE THE BAG LIMIT TO TWO ELK PER CALENDAR YEAR.

Vote: Unanimous

Motion: Gilstrap moved and Golightly seconded THAT THE COMMISSION RECOMMEND FURTHER EVALUATION OF POTENTIAL CONSEQUENCES RESULTING FROM A SPRING ELK HUNT OPPORTUNITY.

Vote: Unanimous

Motion: Golightly moved and Gilstrap seconded THAT THE COMMISSION DIRECT THE DEPARTMENT TO ADOPT NECESSARY ACTIONS TO IMPLEMENT THE ZONE MANAGEMENT GUIDELINES.

Vote: Unanimous

Motion: Gilstrap moved and Golightly seconded THAT THE COMMISSION RECOMMEND FURTHER EVALUATION OF NECESSARY ACTIONS TO DETERMINE WHAT AMENDMENTS MAY BE NECESSARY TO COMPLETELY IMPLEMENT THE PROPOSED ELK MANAGEMENT GUIDELINES.

Vote: Unanimous

Motion: Chilton moved and Golightly seconded THAT THE COMMISSION RECOMMEND FURTHER EVALUATION OF THE ITEMS NECESSARY TO IMPLEMENT ALTERNATIVE HUNT PROCEDURES TO R12-4-115.

Vote: Unanimous

Motion: Carter moved and Gilstrap seconded THAT THE COMMISSION PROVIDE DIRECTION TO THE DEPARTMENT TO DEVELOP AN INFORMATIONAL PACKET AND DISSEMINATION PROCESS TO ALL STAKEHOLDERS TO CREATE AN INFORMED PUBLIC CONCERNING ELK MANAGEMENT IN ARIZONA.

Vote: Unanimous

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The following individuals were recognized by Chairman Manning in the audience: former Commissioner Bill Berlat and former Department Director Bud Bristow.

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5. Call to the Public

John Levy, representing self, spoke with regard to the decline in Gambel and scaled quail populations. He asked for a reduction in the bag limit and shorter seasons.

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6. Future Agenda Items

Commissioner Golightly stated he asked a question of Jay Adkins as to whether or not a government agency could hold a State Trust land or federal grazing lease. He believed Mr. Adkins would have information ready by the next Commission meeting.

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Motion: Gilstrap moved and Carter seconded THAT THE MEETING ADJOURN.

Vote: Unanimous

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Meeting adjourned 9:56 a.m.

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